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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

PATTI KLAIR, ROBERT MYERS, ROBERT BARNES, ERIC CARNRITE, ELIZABETH HILL-D'ALESSANDRO, ROBERT TANNEHILL, DITAS TANNEHILL, JOSE REMENTERIA, TEENA REMENTERIA, CHARLES BRAUER, LAURA BRAUER, KAREN MARION, KATHERINE MADERA, CARL MCQUEARY, LYNN MCQUEARY, DONALD PATTERSON, KURTIS TRENT MANNING, TONY SCHAKER, PATRICK WHITE, HILDEGARD WHITE, QUEST REALTY TRUST, SECURE STORAGE LLC, KURTIS TRENT MANNING LIVING TRUST,

Plaintiffs,

vs.

KEVIN LONG, MILLCREEK COMMERCIAL, LLC, COLLIERS INTERNATIONAL, ANDREW BELL, TREVOR WEBER, SPENCER TAYLOR, BLAKE MCDOUGAL, SCOTT RUTHERFORD, EQUITY SUMMIT GROUP, ELEVATED 1031,

Defendants.

**MOTION FOR LEAVE TO FILE
OVERLENGTH REPLY IN SUPPORT
OF JOINT MOTION TO
CONSOLIDATE RELATED CASES**

**(EXPEDITED REVIEW
REQUESTED)**

Case No. 2:23-cv-00407-AMA-CMR

District Judge Ann Marie McIff Allen

Magistrate Judge Cecilia M. Romero

Pursuant to DUCivR 7-1(a)(7), Defendants Kevin Long, Millcreek Commercial, LLC, Colliers International, Andrew Bell, Trevor Weber, Spencer Taylor, Blake McDougal, Scott Rutherford, Equity Summit Group, and Elevated 1031 (collectively, “Defendants”), through their respective counsel of record, respectfully submit this Motion for Leave to File Overlength Reply in Support of Joint Motion to Consolidate Related Cases (the “Motion”).

RELIEF SOUGHT AND GROUNDS FOR MOTION

Defendants hereby move the Court for leave to file an overlength reply in support of their Joint Motion to Consolidate Related Cases, and for leave to include an additional six pages above the normal ten-page limit, for a total of sixteen (16) pages (as defined by DUCivR 7-1(a)(6)). The grounds for this motion are that (1) Defendants’ reply, which would normally respond to a ten-page memorandum in opposition, must respond to the over twenty-one (21) pages collectively contained in three separate memoranda in opposition; and (2) the three separate memoranda in opposition contain certain differing arguments spanning three separate cases with voluminous underlying Complaints.

STATEMENT OF FACTS

1. On April 26, 2024, Defendants filed a Motion for Leave to File Overlength Joint Motion to Consolidate Related Cases, requesting an additional five pages above the normal ten-page limit based on the following grounds: (1) Defendants seeks to consolidate this case with two other cases, rather than just one other case; and (2) the operative complaints in those cases consist of a strikingly large number of pages, allegations and causes of action.

2. On April 29, 2024, the Court issued an Order Granting Motion for Leave to File Overlength Joint Motion to Consolidate Related Cases, permitting Defendants to file their Joint Motion to Consolidate Related Cases with an additional five pages over the usual ten-page limitation provided for under DUCivR 7-1(a)(4)(D).

3. On April 29, 2024, Defendants filed a Joint Motion to Consolidate Related Cases (the “Motion to Consolidate”).

4. Pursuant to the Motion to Consolidate, Defendants asked the Court to consolidate this case with the following related actions currently pending in the United States District Court for the District of Utah: (1) *Kate Grant v. Kevin Long; Millcreek Commercial Properties, LLC, et al.*, Case No. 2:23-cv-00936 (the “Grant Case”); and (2) *Chris Wilson v. Kevin Long; Millcreek Commercial Properties, LLC, et al.*, Case No. 2:23-cv-00599 (the “Wilson Case”).

5. The Complaint in this case consists of 131 pages, 605 allegations, and fifteen causes of action.

6. The Complaint in the Grant Case consists of 61 pages, 389 allegations, and 12 causes of action.

7. The Amended Complaint in the Wilson Case consists of 64 pages, 416 allegations, and twelve causes of action.

8. On May 13, 2024, Chris Wilson filed Chris Wilson’s Memorandum in Opposition to Defendants’ Joint Motion to Consolidate Related Cases (the “Wilson Opposition”).

9. The Wilson Opposition is approximately five (5) and one-third (1/3) pages long.

10. On May 13, 2024, Kate Grant and Karmann Kasten, LLC filed Kate Grant and Karmann Kasten, LLC's Memorandum in Opposition to Defendants' Joint Motion to Consolidate Related Cases (the "Grant Opposition").

11. The Grant Opposition is approximately four (4) and one-quarter (1/4) pages long.

12. On May 13, 2024, Plaintiffs in this case filed an Opposition to Defendants' Joint Motion to Consolidate ("Plaintiffs' Opposition").

13. Plaintiffs' Opposition is almost twelve (12) pages long.

14. The Wilson Opposition, the Grant Opposition, and Plaintiffs' Opposition collectively consist of over twenty-one (21) pages.

ARGUMENT

A reply in support of a motion to consolidate generally "may not exceed 10 pages or 3,100 words." *See* DUCivR 7-1(a)(4)(D). However, good cause exists for an overlength reply in support of the Motion to Consolidate (the "Reply") for two reasons. First, good cause exists because the Reply, which would normally respond to a ten-page response, must respond to the over twenty-one (21) pages collectively contained in the Wilson Opposition, the Grant Opposition, and Plaintiffs' Opposition.

Second, the Wilson Opposition, the Grant Opposition, and Plaintiffs' Opposition contain certain differing arguments spanning three separate cases. The operative Complaints in those three cases are unusually voluminous: (i) the Complaint in this case consists of 131 pages, 605 allegations, and fifteen causes of action; (ii) the Complaint in the Grant Case consists of 61 pages, 389 allegations, and 12 causes of action; and (iii) the Amended Complaint in the Wilson

Case consists of 64 pages, 416 allegations, and twelve causes of action. As a result, Defendants need more than ten pages to address the content at issue in the over twenty-one (21) pages collectively contained in the Wilson Opposition, the Grant Opposition, and Plaintiffs' Opposition.

Accordingly, Defendants request that the page limitation for the Reply be extended to sixteen (16) pages. A proposed order granting the Motion is attached hereto as Exhibit "A."

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant this Motion for Leave to File Overlength Reply in Support of Joint Motion to Consolidate Related Cases.

REQUEST FOR EXPEDITED REVIEW

Since June 4, 2024 is the deadline to file the Reply, Defendants respectfully request that the Court expedite its review of the Motion.

DATED this 31st day of May, 2024.

PARR BROWN GEE & LOVELESS

By: /s/ Bentley J. Tolk

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By: /s/ John A. Snow
John A. Snow

*Attorneys for Defendants Scott Rutherford,
Equity Summit Group, and Elevated 1031*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of May, 2024, a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE OVERLENGTH REPLY IN SUPPORT OF JOINT MOTION TO CONSOLIDATE RELATED CASES (EXPEDITED REVIEW REQUESTED)** was filed through the Court's ECF system, providing notice to all counsel of record.

/s/ Bentley J. Tolk